

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:14-CR-00047-DGK
)	
SUSAN E. PROPHET,)	
)	
Defendant.)	

ORDER DENYING TURNOVER OF FUNDS FROM INMATE TRUST ACCOUNT

Defendant pled guilty to bank fraud and aggravated identify theft. ECF No. 25. The Court sentenced Defendant to 240 months’ imprisonment and ordered her to pay \$668,889.88 in restitution. ECF No. 35.

Now before the Court is the Government’s Motion to Authorize Turnover from Inmate Trust Account. ECF No. 72. The Government moves for an order directing the Bureau of Prisons to turn over to the Clerk of the Court \$1593.86 of the \$1618.86 held in Defendant’s inmate trust account as payment toward the restitution owed in this case. The motion contends that *all* funds in Defendant’s inmate trust account—whatever their amount or source—are available to be “turned over” to pay the restitution owed.

The Government’s motion is brought pursuant to 18 U.S.C. § 3613 (identifying civil remedies available to satisfy criminal fine or a lien, including restitution ordered under § 3664) and 18 U.S.C. § 3664(m)(1)(A) and (n) (delineating how the Government may enforce restitution orders). In relevant part, “§ 3664(n) provides than an inmate who ‘receives substantial resources from any source, including inheritance, settlement, or other judgment’ must apply ‘the value of

such resources' to his unpaid restitution.” *United States v. Kidd*, --- F.4th ---, No. 20-2616, 2022 WL 90206, at *4 (8th Cir. Jan. 10, 2022) (quoting § 3664(n)).

After the pending motion was fully briefed, the Eighth Circuit held that prison wages are not subject to seizure pursuant to § 3664(n). *Kidd*, 2022 WL 90206, at *4-5 (ordering remand for the district court to develop the record and identify the various sources of funds in defendant’s inmate trust account). The existing record does not address how much, if any, of the money in Defendant’s inmate trust account is from prison wages and how much is from other sources (e.g., inheritances, deposits made by friends and family, etc.).

Accordingly, the motion is DENIED WITHOUT PREJUDICE. If the Government renews the motion, it should make a request that conforms with controlling law and provide a record supporting that request.

IT IS SO ORDERED.

Date: January 20, 2022

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT